

# Request for Proposal #3120000872

to

Provide Customized Testing and Reporting Services for  
DNA Analysis

for

MS Forensics Laboratory

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**Specifications/Scope of Work**  
**Request for Proposal No: 3120000872**

**INVITATION:** Written proposals subject to the conditions herein stated and attached hereto, will be received at this office until Monday, September 19, 2016 at 10:00 a.m. local time for furnishing the services as described below for the Mississippi Forensics Laboratory.

**DESCRIPTION:** The Mississippi Forensics Laboratory (MSFL) is hereby requesting written proposals to provide customized testing and reporting services for DNA analysis.

The Mississippi Forensics Laboratory will receive proposals from firms having specific experience and qualifications in the area identified in the solicitation. For consideration, proposals for the project must contain evidence of the firm's experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by the Mississippi Forensics Laboratory may be included elsewhere in the solicitation. Unless otherwise stated, all offerors shall provide profiles and resumes' of the staff to be assigned to the project, references, illustrative examples of similar work performed, and any other information that clearly demonstrates the offerors' expertise in the area of the solicitation.

**SPECIFICATIONS, TERMS AND CONDITIONS FOR SERVICES**

**1.0 Definitions:**

State - Wherever the word State appears in this RFP/Statement of Work that means the State of Mississippi.

DNA test kit - Wherever the term DNA test kit appears in this RFP/Statement of Work that refers to the Identifiler or Globalfiler Kit produced by Applied Biosystems.

Genetic analysis software - Wherever the term genetic analysis software appears in this RFP/Statement of Work, that refers to Genemapper ID version 3.2.1(for Identifiler analysis) or Genemapper IDX version 1.5 (for Globalfiler analysis).

DNA analysis platform - Wherever the term DNA analysis platform appears in this RFP/Statement of Work, that refers to ABI 3130 or 3130XL for Identifiler kit or 3500 or 3500XL for Globalfiler kit.

**Background**

The National Institute of Justice (NIJ) Convicted Offender DNA Backlog Reduction Program (Outsourcing) helps States reduce their backlog of unanalyzed convicted offender DNA samples. This program provides States with the opportunity to outsource their backlogged offender samples to high throughput Vendor laboratories offering customized testing and reporting services. The goals of the program are as follows:

1. **Promptly enter acceptable profiles into CODIS** - successfully processing a sample through the Vendor laboratory the first time (minimized repeat testing, re-amplifications, re-injections etc.)

Successfully processing samples:

- Simplifies data review
- Ensures samples move through the Vendor laboratory as a group that can then be easily returned to the State for hit confirmation. This will:
  - Expedite hit confirmation
  - Simplify tracking of the profile and physical sample
  - Avoids excess sample consumption
- Reporting data that is easy to review and includes:
  - Data packages which are complete and easy to navigate and review
  - Profiles that do not require interpretation which include:
    - Correct allele calls
    - No questionable data
    - High signal to noise ratio
    - No artifacts (pull-up, spikes, excess stutter)
    - No chance of allelic drop-out
    - No composite profiles

Reporting profiles that are not rejected by the State and returned to the Vendor for retesting.

2. **Save work for the State** - The purpose is to reduce work for the State by having the Vendor Laboratory complete as much work for the State as possible. This includes:
  - Comprehensible data review
  - Returning samples and profile data in the same order they were received by the Vendor
  - Testing all samples and obtaining profiles (even for the difficult samples)  
Any situation that creates additional work for the State (e.g. retesting failed samples, having to do data interpretation verses data review, or extra handling of the physical sample) does not meet program goals.
3. **Minimize failed samples** - It is important that all samples be typed successfully by the Vendor. If the State receives a failed sample they have to locate the sample, retest the sample, and confirm that the profiles are the same (if a partial profile was obtained by the Vendor). When a Vendor reports a failed sample goals #1 and #2 are not met and it causes more work for the State.

## Scope

The Mississippi Forensics Laboratory is requesting proposals to procure DNA sample analysis services on behalf of the State. MSFL will select one vendor to award the contract to provide testing services.

### Description, Estimated Test Quantities, and Period of Performance

Period of Performance	Kit and Platform	Sample Description	Est. Qty.
36 months- effective date begins on 1/1/2017 to 12/31/2019 with one 12 month option to renew	AmpFLSTR Identifier Amplification Kit®  ABI 3130 or 3130XL Genemapper ID Version 3.2.1  -----OR-----  AmpFLSTR Globalfiler Amplification Kit®  ABI 3500 or 3500XL  GeneMapper IDX Version 1.5	Approximately 15,244 samples are  Bode Buccal Collector or cotton Tip swabs Each sample will include a Bode buccal collector or cotton tip swabs packaged in an envelope labeled with a bar-code bearing an unique number.  Samples are considered to be of high quality, and all of the samples should yield profiles consistent with specifications of the delivery order.	15,244

**1. Shipping Labels**

The Vendor shall provide preprinted shipping labels and shipping containers to the State.

**2. Shipping Rate**

It is anticipated that the State will ship the bulk of the samples at the beginning of the contract and any remaining samples on a regular basis.

**3. Shipping Notification**

The Vendor shall immediately (within one business day) notify the State via e-mail each time a shipping container under this task order is received by the Vendor. The Vendor shall examine the shipping container and notify the State by phone or e-mail (unless otherwise specified) immediately upon discovery of any damage to the shipping container that would compromise the integrity of the samples.

**4. Chain of Custody**

The Vendor shall maintain a complete electronic chain of custody for all samples starting with the unique identifier on the overnight shipping label on the shipping

container. The chain of custody shall also include the unique identifier on the overnight shipping label used when sending samples to and from the State.

**5. Manifest Reconciliation**

The Vendor shall electronically compare the manifest with the samples received by the Vendor and notify the State by phone and e-mail (unless otherwise specified) immediately upon discovery of any discrepancy. Sample seals shall be checked for seal integrity and the Vendor shall notify the State by phone and e-mail (unless otherwise specified) immediately upon discovery of any sample received open (and not resealed with tape).

**6. Sample Number Verification**

The Vendor shall compare the exterior (on packaging) and interior (on sample) labels associated with the sample and notify the State by phone or e-mail immediately upon discovery of any discrepancy.

**7. Sample Consumption**

No more than 50% of a sample shall be consumed by the Vendor without written permission of the Mississippi Forensics Laboratory.

**8. Confidentiality**

No identification information about the sample other than the unique identification number may be recorded by the Vendor. Any "outside" inquiries related to the processing of samples submitted by the State shall be immediately reported to the State. No information regarding the processing of samples submitted by the Mississippi Forensics Laboratory shall be provided to any party outside the State.

**9. Testing Location**

Samples shall only be tested at the Vendor laboratory location approved by the Mississippi Forensics Laboratory.

**10. Sample Processing Order**

The samples shall be processed in the following order: Samples with the oldest date of receipt by the Vendor shall be analyzed first. Upon request by the State, the Vendor shall test a sample out of receipt order. Buccal swabs will generally be grouped together and may be tested separate from blood samples. It is the vendor discretion whether to test Buccal swabs grouped together or test separate from blood samples.

**11. Batch Composition**

Samples shall be tested, reported and returned in batches consistent with the way the samples were shipped. Samples within a batch shall be tested and reported in numerical order (with the exception of retesting).

## **12. Sample Identification**

The samples shall be identified throughout the testing process with the State unique identification number. The Vendor may utilize their barcode so long as that barcode is associated with one and only one State unique identification number.

## **13. Testing Procedures**

Procedures, policies, and methods used by the Vendor will be such that promote the successful profiling of samples the first time through the laboratory (without re-injections, re-testing and additional sample consumption) and will provide data that is the least complicated for the State to review.

- a. MSFL expects a level of performance such that the Vendor successfully processes a sample through the Vendor laboratory the first time (minimized repeat testing, re-amplifications, re-injections etc.)
- b. Changes affecting the State's sample processing shall not be implemented unless approved by the State's technical leader in writing ten working days prior to the processing of samples.
- c. The Vendor shall provide documentation for these changes to the State. When a procedural change is requested, the State will review the Vendor's validation studies and reports. The State will also consider the impact that the proposed change will have on the State's laboratory process. The State may also want to inspect the approved process in the Vendor's laboratory prior to its implementation. The State's written approval will include an implementation date. Procedural changes shall not be utilized prior to the implementation date.
- d. Vendor shall provide copies of standard operating procedures and quality assurance documents that apply to the receipt and analysis of samples for evaluation by the State prior to award of the contract for verification. This process will be reviewed during the procurement process prior to the award of the contract and throughout the life of the contract. Please note that the most current standard operating procedures and quality assurance documents should be listed in your proposal with the proposed plan for performing the required services as listed under Step II in this RFP. Electronic copies will be acceptable once the vendor is awarded the contract.
- e. If at any time in the testing process following award the State determines that a procedure is inadequate for the processing of the State's samples, the Vendor shall implement and validate a procedure that is acceptable to the State.
- f. In addition, the Vendor shall not place samples from any other contract on a plate containing samples from any source other than the State.
- g. The Vendor shall use an amplification reaction volume of 12.5ul or greater using the manufacturer's suggested concentrations of reaction components. A failed sample is defined as one that does not yield an acceptable profile according to the technical specifications.
- h. All analyses shall be performed by the Vendor utilizing only commercially available NDIS approved PCR kits and components. Allelic ladders shall be used directly from the manufacturer's kit and shall not be re-amplified. Primers shall be used in the concentration provided by the manufacturer and shall not be diluted.

**14. Notification of Testing Issues**

The Vendor shall, within five working days of occurrence, provide to the State, in writing, any problem and associated corrective action regarding samples from the State. If an issue is discovered which requires corrective action, the Vendor shall demonstrate the extent of the issue and identify all affected samples/profiles and provide corrective action.

**15. Notification of Staffing Changes**

The State shall be notified in writing when the following staffing changes are made:

Vendor Point of Contact

Project Manager

Technical Leader

Laboratory Director

**16. Automation**

Vendors are required to have the extraction, amplification, and analysis procedures to be automated to the extent possible based on current technology. If a vendor does not have the extraction and amplification processes automated, they must have a documented witnessing procedure of all sample transfers.

**17. Spiking/Enriching**

Spiking or enriching a sample shall not be acceptable.

**18. Controls**

All controls shall be associated with every sample. That is, each sample used in reporting shall have an acceptable extraction positive, extraction negative, amplification positive, amplification negative and ladder associated with each locus. Controls shall be disbursed throughout a plate of samples. That is, controls shall not be grouped together at the beginning, middle or the end of a plate. If a sample is rerun then all controls shall be rerun. The extraction controls [positive and negative] should be run with every extraction set of samples. An extraction set is defined as those samples extracted by one person at the same time with the same set of reagents. The following controls shall be run:

a. Amplification positive

Name: 9947A.

When introduced: at amplification.

Considered acceptable when: produces correct alleles and meets reporting guidelines below.

1. Location on analysis: within sample plate

2. Location in data files: determined by Vendor must be consistent.

b. Amplification negative

Name: determined by Vendor.

When introduced: at amplification.

Considered acceptable when there is no data. However, the dye blob or primer peak shall be present in the analysis software. Alternatively the Vendor laboratory can provide documentation which clearly demonstrates the dye blob (i.e. a screen shot of the gel depicting the dye blob). The

State will approve the documentation of the dye blob prior to the processing of the samples. The data generated by the genetic analysis software) should be free of potential alleles above noise (this may be below the minimum RFU threshold). Location on analysis: within sample plate and on each gel if multiple gels are run from a single plate.  
Location in data files: determined by Vendor must be consistent.

c. Extraction positive

Name: Mississippi extraction positive sample: One Mississippi extraction positive sample must be **attempted** in each run. The sample will be introduced at the extraction stage. This sample will be provided by the State.

When introduced: when extracting samples.

Considered acceptable when: produces correct alleles and meets reporting guidelines below.

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

d. Extraction negative

Name: Determined by Vendor must be consistent.

When introduced: when extracting the State's samples.

Considered acceptable when there is no data. However, the dye blob or primer peak shall be present in genetic analysis software. Alternatively the Vendor laboratory can provide documentation which clearly demonstrates the dye blob (i.e. a screen shot of the gel depicting the dye blob). The State will approve the documentation of the dye blob prior to the processing of the samples. The data from the genetic analysis software should be free of potential alleles above noise (this may be below the minimum RFU threshold).

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

e. Ladder

Name: Determined by Vendor must be consistent.

When introduced: upon analysis

Considered acceptable when: all appropriate peaks are present and correctly labeled

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

Controls shall be directly associated (same data file) with their corresponding samples. Data files or raw data files are defined as the genetic analysis software files containing samples and all associated controls. In addition, the Vendor shall use a "plate fingerprinting" system to uniquely identify a 96-well plate. This mechanism shall involve the strategic placement of known controls on a 96-well plate such that any plate mix-up can be detected.

## 19. Data Analysis

All reported profiles shall be interpreted in duplicate independently by qualified analysts. All profiles shall be reported accurately. The use of expert systems rather than qualified analysts must be approved in writing by the State prior to implementation, and the expert systems must be validated by the Vendor and



approved by National DNA Index System. Upon approval, some of the data presentation parameters may be modified to ensure proper allele calls. Internal size standard shall have the 75 - 400bp peaks correctly identified for all reported samples, ladders and controls. If expert systems are used please list this information in your proposal with the proposed plan for performing the required services as listed under Step II in this RFP.

## **20. Data Presentation Parameters**

The reported profiles shall have the following characteristics:

- a. Alleles in ladders, positive controls and samples shall have a signal at least 3X that of background. The State will not be measuring the signal to noise ratio for every sample. However, if the State feels that background is excessive, the Vendor laboratory shall be prepared to demonstrate signal to noise contract compliance if requested.
- b. Peak shape shall be symmetrical, wider at the base than at the peak, height greater than the width, bell shaped, and devoid of split peaks.
- c. Min. Peak Height: 175 RFU for heterozygote alleles and ladder  
350 RFU for homozygote alleles  
175 RFU for ILS
- d. Maximum peak height shall not exceed the maximum detection threshold of the instrument. The State may elect to accept data with a higher maximum peak height after reviewing the Vendor's validation experiments.
- e. Heterozygote allele peak height ratio shall be within 50%. If sample is retested and peak height ratio at the same location is still less than 50% the Vendor shall provide supporting documentation for the imbalance. The run data shall be provided in a manner such that all data is provided in the data package of the reported profile. This means that State will be able to evaluate all data associated with the profile without going back to previously submitted data packages. Screen shots of the first analysis (containing the ladder that was used and the sample) will be acceptable. The screen shots shall be of both the entire sample and ladder and an enlargement of the locus of interest. The Vendor shall provide the State with a proposed method of reporting and documentation and the State will notify the Vendor of the approved method of reporting documentation.
- f. Spikes shall not be acceptable in the allele calling region.
- g. Extraneous peaks shall not be acceptable in the allele calling region.
- h. Stutter called by the genetic analysis software set at 20% shall not be acceptable. Stutter values in genetic analysis software shall be those established by the Vendor validation studies or alternatively those values published by Applied Biosystems.
- i. Mixtures: Any sample profile that appears to be a mixture is unacceptable, and shall be retested.
- j. A called by the genetic analysis software set at 20% shall not be acceptable. Sample exhibiting excessive -A (in several markers and in excess of 15%) shall be retested by re-amplifying after adjusting the template concentration before analysis.

- k. Tri-alleles: Shall be re-extracted and the profile verified. Upon reporting, the State shall be provided with data from both runs documenting the tri-allelic profile in the same manner as the alleles with confirmed imbalance.
- l. Microvariants and off-ladder alleles: The Vendor shall provide the State with a list of proposed microvariant and off ladder alleles (above, below and within the ladder). All microvariant and off ladder allele containing samples shall be retested beginning with the re-amplification of the sample and documentation provided in the same manner as the confirmed imbalances and tri-alleles. MSFL expects a level of performance that ensures no profiles are ever rejected by the State. (MSFL defines a rejected profile as a profile that cannot be imported into NDIS for any reason, including incorrect controls, inadequate data quality, incomplete paperwork, or improperly formatted CMF files.) MSFL expects 100% contract compliance. MSFL also expects that data quality will be such that the State can find no problems during their 100% data review. Samples that do not meet the reporting criteria shall be repeated. Documentation shall be provided that indicates which samples did not meet reporting criteria, why the samples(s) did not meet reporting criteria, what actions will be taken, and the results of those subsequent actions. The Vendor shall retest any sample that the State determines to be of poor quality.

## 21. Retesting

The Vendor shall adhere to all of the specifications in MSFL 's technical specifications. *The analysis of a specimen shall not be considered complete until genotypes for all Expanded CODIS core STR loci and all Globalfiler or Identifiler kit loci have been generated and accepted by MSFL. For samples not yielding a complete profile the Vendor shall retest the sample a minimum of two times, altering conditions within the boundaries of the laboratories written Standard Operating Procedures, as necessary, to produce a complete profile.*

**NOTE: MSFL will only pay for complete profiles or profiles that have been retested at least twice as outlined above.** The failure cannot be attributed to an error or omission on the part of the Vendor (e.g. failed ladder or control).

## 22. Data Reporting

- a. This data should include but not be limited to - raw data electropherograms showing the primer peaks and internal size standard, quantitation results. No composite profiles (instances where the expanded CODIS core loci are created from more than the minimum multiplex data file because one or more of the loci do not meet reporting criteria) shall be reported. All data and all associated controls from failed samples shall be provided to the State separate from reported profiles. This data shall include but not be limited to genetic analysis software files, Excel files and CMF files.
- b. Prior to reporting profiles, the Vendor shall perform a limited contamination quality assurance check by electronically comparing the reported profiles to a database of employee and contamination profiles observed in the Vendor laboratory. Vendor laboratories MAY NOT search profiles from the State against any other profiles they have in their computer systems. No composite profiles (instances where all STR loci are created from more than two multiplex

data file because one or more of the loci do not meet reporting criteria) should be reported.

- c. All reported peaks shall be labeled with the appropriate allele call for upload into CODIS.
- d. Non-reported samples shall not be intermixed in reported data files for the State's review.
- e. Data from all sample runs shall be provided to the State.
- f. No more than 20% of the reported genetic analysis software files shall have less than 5 sample profiles.
- g. The number of samples (complete expanded loci profile) in a reported batch (data package) shall be approximately 500.
- h. The following documentation shall be provided/associated with the reported profiles: On Compact Disc:
  - ☐ Raw Data Files
  - ☐ Genetic analysis software files:
  - ☐ All of the data (both good and bad) shall be reported. In addition, there should be a file that contains only the samples being reported in the CMF and the associated controls and ladders.
  - ☐ Electronic Chain of Custody.
  - ☐ CMF file ready for import into CODIS.
  - ☐ Hard Copy and/or Electronic (as specified by the State):
  - ☐ Documentation describing which runs the sample was in. This can be a separate spreadsheet or incorporated with the summary table. The samples shall be in numerical order.
  - ☐ Summary table for the data being reported in the CMF file, to include the specimen ID and profile. The samples shall be in numerical order.
  - ☐ Hand generated laboratory notes/worksheets.
  - ☐ Report of confirmed unusual profiles such as imbalance, microvariants and tri-alleles.
  - ☐ List of failed samples along with reason for failure and documentation of efforts taken to obtain a successful profile.
- i. Import files shall be in a CMF file that shall not require any alteration by the State in order to upload into CODIS. The State will provide the Vendor their ORI number. The Vendor shall include any additional data in the CMF file provided to the Vendor or requested by the State.
- j. Data and data files shall be electronically reported in the following format:
  - 1. There shall be the following subdirectories:
    - i. One containing all data.

## **EVALUATION PROCEDURES AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS:**

Qualifications of Offerors: MSFL may make reasonable investigations deemed necessary and proper to determine the ability of the Offeror to perform the work, and the Offeror shall furnish to MSFL all information for this purpose that may be requested. The personnel, equipment and facilities, to perform the services currently available or demonstrated to be made available at the time of contracting shall be provided. MSFL reserves the right to reject any offer if the evidence submitted by, or investigation of, the Offeror fails to satisfy MSFL that the Offeror is properly qualified to carry out the obligations of the contract and to complete the work described therein.

A selection committee made up of qualified MSFL staff shall review and evaluate all replies. The selection committee shall have only the response to the solicitation to review for selection of finalists. It is therefore important that respondents emphasize specific information pertinent to the work.

**Step I:** Proposals shall be reviewed to assure compliance with the minimum specifications. Proposals that do not comply with the minimum specifications shall be rejected immediately, receiving no further consideration.

### **Offeror's Written Proposal Shall Contain the Following Minimum Information:**

- (1) name of consultant, location of consultant's principal place of business, and the place of performance of the proposed contract
- (2) age of consultant's business and the average number of employees over the past three (3) years;
- (3) resume' listing abilities, qualifications and experience of all individuals who shall be assigned to provide the required services;
- (4) a listing of other contracts under which services similar in scope, size or discipline to the required services were performed or undertaken within the past 3 years.
- (5) a plan giving as much details as is practical explaining how the services will be performed.

**Step II:** Proposals that satisfactorily complete Step I shall be reviewed/analyzed to determine if the proposal adequately meets the needs of MSFL. **The following is the recommendation for the rating criteria for the outsource laboratory conducting analysis on Convicted Offender samples. A rating of 1-5, with 5 being the highest, can be assigned to each criterion. Each criterion is assigned a weight which is listed**

**below. Total points for each criterion is determined by the weight times the rating. The overall total points a vendor can receive is 100 points.**

1. The overall quality of the proposed plan for performing the required services.  
(Critical- weight 5 point)
2. Ability to perform the services as reflected by technical training and education, general experiences, specific experiences in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. (Critical- weight 5 points)
3. The personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of the contacting.  
(Very Important- weight 3 points)
4. A record of past performance of similar work.  
(Critical- weight 5 points)
5. Price-points will be awarded based on price per sample. However, vendor should also include the total price for 15,244. The selected vendor will be responsible for providing the DNA test kits.  
(Important –weight 2 point)

**Step III MSFL** may contact the Offeror whose proposal best meets **MSFL**'s needs (based on factors evaluated in Step II) and attempt to negotiate an agreement that is deemed acceptable to both parties.

## **RESPONSE FORMAT**

The following response format shall be used for all submitted proposals:

- A. Management Summary:** Provide a cover letter indicating the underlying philosophy of the Offeror in providing the service.
- B. Proposal:** Describe in detail how the service shall be provided. Include a description of major tasks and subtasks. A timeline for execution shall be included in this section.
- C. Corporate experience and capacity:** Describe the experience of the Offeror in providing the service, give number of years that the service has been delivered, and provide a statement on the extent of any corporate expansion required to handle the service.
- D. Personnel:** Attach resumes of all those who shall be involved in the management of this project that include their experience in the area of service delivery. Indicate the level of involvement by principals of the Offeror in the day-to-day operation of the contract.
- E. References:** Offerors shall demonstrate successful past performance through submission of documentation of relevant qualifications and experience on two

projects completed within the last three years that included customized testing and reporting services for DNA Analysis, similar to the requirements specified. Include the name of the organization, the length of the contract, a brief summary of work, and the name and telephone number of a responsible contact person. Explain the similarity of the projects to the MSFL project.

- F. Acceptance of conditions:** Indicate any exceptions to the proposal document terms, conditions and requirements.
- G. Additional data:** Provide any additional information that shall aid in evaluation of the response.
- H. Cost data:** Estimate the cost of the service. Cost data submitted at this stage is not binding and is subject to negotiation if your Proposal is chosen as a finalist.

## **DEBRIEFING REQUEST**

A bidder, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Commissioner of Public Safety and a copy submitted to the Procurement Division of the MS Department of Public Safety within three business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within five business days of receipt of the request. If a bidder prefers to have legal representation present, the bidder must notify the Commissioner of Public Safety in writing and identify its attorney by name, address, and telephone number. The MS Department of Public Safety will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General or a Representative of the MS Department of Public Safety's Legal Division can be present.

Unless good cause exists for delay, the debriefing should occur within five (5) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to MS Department of Public Safety.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-112 through 7-112.07, Post-Award Vendor Debriefing, of the Mississippi Personal Service Contract Review Board's Rules and Regulations.

## WRITTEN QUESTION AND ANSWER SCHEDULE

Written questions or clarifications will be accepted by email from 8:00 a.m. local time, from Tuesday, August 30, 2016 – Tuesday, September 6, 2016 until 5:00 p.m. local time to [btoles@dps.ms.gov](mailto:btoles@dps.ms.gov) and [stoaster@dps.ms.gov](mailto:stoaster@dps.ms.gov). No further inquiries will be accepted after that time. Answers to written questions or clarifications will be provided by email no later than 5:00 p.m. local time, Friday, September 9, 2016. If it is determined that an amendment to the RFP will be issued, it will be provided by email with sufficient time to respond to the RFP.

## PROPOSAL SUBMISSION

Proposals for RFP #17-02 will be accepted until 10:00 a.m. local time, Monday, September 19, 2016. Proposals should be received at MS Department of Public Safety, Procurement Department, Room 402, 1900 East Woodrow Wilson Boulevard, Jackson, MS 39216. Offerors shall submit all **signed** proposals in a **sealed envelope** or package to Betsy Toles, MS Department of Public Safety, Procurement Department, 1900 East Woodrow Wilson Boulevard, Room 402, Jackson, MS 39216. Timely submission of the proposal is the responsibility of the Offeror. Offers received after the specified time shall be rejected and returned to the Offeror unopened. **Please note that no facsimile or electronic mail proposals will be accepted. The envelope or package shall be clearly marked "Sealed Proposal" and show the proposal number in the lower left hand corner on the outside of the envelope or package.** Each page of the proposal and all attachments shall be identified with the name of the Offeror. Proposers shall submit one (1) signed and dated original (marked original) proposal, one electronic copy on a compact disc in Word or pdf format, and five (5) paper copies.

## **GENERAL TERMS AND CONDITIONS**

### **APPLICABLE LAW**

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.

### **AVAILABILITY OF FUNDS**

It is expressly understood and agreed that the obligation of the MSFL (MS Forensics Lab) to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of State and/or Federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the MSFL, the MSFL shall have the right upon ten (10) working days written notice to the contractor, to terminate this agreement without damage, penalty, cost or expenses to the MSFL of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

### **PROCUREMENT REGULATIONS**

The contract shall be governed by the applicable provisions of the *Mississippi Personal Service Contract Review Board Rules and Regulations*, a copy of which is available at 210 East Capitol, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

### **COMPLIANCE WITH LAWS**

Contractor understands that the Department of Public Safety is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the contract that Contractor will strictly adhere to this policy in its employment practices and provisions of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and may be amended or modified.



## **STOP WORK ORDER**

(1) **Order to Stop Work:** The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:

- (a) cancel the stop work order; or,
- (b) terminate the work covered by such order as provided in the Termination for Default Clause or the Termination for Convenience Clause of this contract.

(2) **Cancellation or Expiration of the Order:** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

- (a) the stop work order results in an increase in the time required for, or in Contractor's properly allocable to, the performance of any part of this contract; and,
- (b) Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

(3) **Termination of Stopped Work:** If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

(4) **Adjustments of Price:** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

## **CONTRACT TERMS**

Compensation for services will be in the form of a firm fixed price agreement/contract for a period of performance of three years to be effective on January 1, 2017 and expire on December 31, 2020.

## **RENEWAL OF CONTRACTS**

The contract may be renewed at the discretion of the agency upon written notice to the contractor at least 60 days prior to the contract anniversary date for a period of one year under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed one.

## **RFP DOES NOT CONSTITUTE ACCEPTANCE OF OFFER**

The release of the Request for Proposal does not constitute an acceptance of any offer, nor does such release in any way obligate the Mississippi Forensics Laboratory to execute a contract with any other party. The Mississippi Forensics Laboratory reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the Mississippi Forensics Laboratory.

## **EXCEPTIONS AND DEVIATIONS**

Offerors taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal and shall be fully described. Failure to indicate any exception will be interpreted as the offeror's intent to comply fully with the requirements as written. Conditional or qualified offerors, unless specifically allowed, shall be subject to rejection in whole or in part.

## **REPRESENTATION REGARDING CONTINGENT FEES**

The offeror/contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid or proposal.

## **REPRESENTATION REGARDING GRATUITIES**

The offeror/contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204(Gratuities) of the *Mississippi Personal Service Contract Review Board Rules and Regulations*.

## **ACKNOWLEDGMENT OF AMENDMENTS**

Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the RFP, by identifying the amendment number and date in the space provided for this purpose on the RFP form, or by letter. The acknowledgment must be received by the MSFL by the time and at the place specified for receipt of RFPs.

## **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to those prices, the intention to submit a RFP, or the methods or factors used to calculate the contracts RFP.

## **E-PAYMENT**

Offeror agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The MSFL agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated §31-7-305

## **PAYMODE**

The State of Mississippi, Department of Finance and Administration (DFA), requires new vendors to register for electronic payment via the State's e-payment and remittance channel. These requirements are outlined in DFA's Administrative Rule - Mandatory E-Payments to Vendors , effective July 1, 2006.

The State's current processor for e-payments and remittance to vendors is Bank of America. The product used is PayMode®. Enrollment in PayMode is simple, takes less than 10 minutes to initiate, and can be easily completed online at <http://portal.paymode.com/ms/>. Vendors who require personal assistance can call Bank of America toll-free at 1-866-252-7366.

Payments by State agencies using the Statewide Automated Accounting System (SAAS) shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Offeror's choice. The State may, at its sole discretion, require the Offeror to submit invoices and supporting documentation electronically at any time during the term of this Agreement. Offeror understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

## **COMPLIANCE WITH LAWS**

Contractor understands that the MSFL is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services.

Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

## **E-VERIFICATION**

If applicable, Offeror represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 et seq. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Offeror agrees to provide a copy of each such verification. Offeror further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Offeror to the following:

- (1) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (2) the loss of any license, permit, certification or other document granted to Offeror by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or, both
- (3) In the event of such cancellations/termination, Offeror would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

## **COMPETITIVE NEGOTIATION**

The proposal method to be used is that of competitive negotiation from which MSFL is seeking the best combination of price, experience and quality of service. Discussions may be conducted with the offerors/proposers who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and based on factors listed in Step II of the Request for Proposal. MSFL also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of offered terms, services or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

## **INSURANCE REQUIREMENTS**

The successful offeror/proposer will be required to procure professional liability coverage in the amount of \$1,000,000 per occurrence for each year of the contract and offer proof of such coverage. Proof of Coverage is required to be submitted with the Offeror's proposal.

## **REJECTION OF PROPOSALS**

Proposals that do not conform to the requirements set forth in this RFP may be rejected by MSFL. Proposals may be rejected for reasons that include, but are not limited to, the following:

- A. The proposal contains unauthorized amendments to the requirements of the RFP.
- B. The proposal is conditional.
- C. The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous.
- D. The proposal is not received by the deadline.
- E. The proposal is not signed by an authorized representative of the party.
- F. The proposal contains false or misleading statements or references.
- G. The proposal does not offer to provide all services required by the RFP.

## **NONCONFORMING TERMS AND CONDITIONS**

A proposal that includes terms and conditions that do not conform to the terms and conditions in the Request for Proposal is subject to rejection as non-responsive. The Mississippi Forensics Laboratory reserves the right to permit the offeror to withdraw nonconforming terms and conditions from its proposal prior to a determination by the Mississippi Forensics Laboratory of non-responsiveness based on the submission of nonconforming terms and conditions.

## **ACCEPTANCE OF PROPOSALS**

MSFL reserves the right in its sole discretion to waive minor irregularities in proposals. A minor irregularity is a variation of the RFP which does not affect the price of the proposal or give one party an advantage or benefit not enjoyed by other parties or adversely impact the interest of MSFL. Waivers when granted shall in no way modify

the RFP requirements or excuse the party from full compliance with the RFP specifications and other contract requirements if the party is awarded the contract.

## **EXPENSES INCURRED IN PREPARING OFFERS**

The Mississippi Forensics Laboratory accepts no responsibility for any expense incurred by the offeror in the preparation and presentation of an offer. Such expenses shall be borne exclusively by the offeror.

## **DISPOSITION OF PROPOSALS**

All submitted proposals become the property of MSFL.

## **PROPRIETARY INFORMATION**

The offeror/proposer should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with Section 25-61-9 and 79-23-1 of the Mississippi Code. Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

## **FORCE MAJEURE**

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its Subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"). When such a cause arises, the Contractor shall notify the MS Forensics Laboratory immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the MS Forensics Laboratory determines it to be in its best interest to terminate the agreement.

## **CONFIDENTIALITY**

The offeror/contractor shall agree to assure the confidentiality of any records obtained from MSFL as required by State and Federal privacy laws. No information, documents or other material provided to or prepared by the offeror deemed confidential by MSFL pursuant to State and Federal privacy laws, shall be made available to any person or organization without the prior approval of MSFL. Any liability resulting from the wrongful disclosure of confidential information on the part of the offeror shall rest with the offeror/contractor.

## **ANTITRUST**

By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Mississippi Forensics Laboratory all rights, titles, and interest it may now have or hereafter acquire under the antitrust laws of the United States and the State of Mississippi that relate to the particular goods or services purchased or acquired by the Mississippi Forensics Laboratory under said contract.

## **APPROVAL**

It is understood that the Contract is void and no payment shall be made in the event that the Personal Service Contract Review Board does not approve this contract.

## **ATTORNEYS' FEES AND EXPENSES**

Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.

## **AUTHORITY TO CONTRACT**

Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

## **CHANGE IN SCOPE OF WORK**

The Mississippi Forensics Laboratory may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the Mississippi Forensics Laboratory and the Contractor.

If the Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the Mississippi Forensics Laboratory in writing of this

belief. If the Mississippi Forensics Laboratory believes that the particular work is within the scope of the contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope.

## **CONTRACTOR PERSONNEL**

The Mississippi Forensics Laboratory shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or Subcontractors assigned to the work by the Contractor. If the Mississippi Forensics Laboratory reasonably rejects staff or Subcontractors, the Contractor must provide replacement staff or Subcontractors satisfactory to the Mississippi Forensics Laboratory in a timely manner and at no additional cost to the Mississippi Forensics Laboratory. The day-to-day supervision and control of the Contractor's employees and Subcontractors is the sole responsibility of the Contractor.

## **FAILURE TO DELIVER**

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the Mississippi Forensics Laboratory, after due oral or written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Mississippi Forensics Laboratory may have.

## **FAILURE TO ENFORCE**

Failure by the Mississippi Forensics Laboratory at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Mississippi Forensics Laboratory to enforce any provision at any time in accordance with its terms.

## **INDEMNIFICATION**

To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the MS Forensics Laboratory its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, etc. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the State; the Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. The Contractor shall not settle any claim, suit, etc. without the State's concurrence, which the State shall not unreasonably withhold.



## **INDEPENDENT CONTRACTOR STATUS**

The Contractor shall, at all times, be regarded as an independent contractor and shall at no time act as an agent for the MS Forensics Laboratory. Nothing contained herein shall be deemed or construed by the MS Forensics Laboratory, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the MS Forensics Laboratory and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MS Forensics Laboratory or the Contractor hereunder, create or shall be deemed to create a relationship other than the independent relationship of the MS Forensics Laboratory and the Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of the Mississippi Forensics Laboratory; and the Mississippi Forensics Laboratory shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The Mississippi Forensics Laboratory shall not withhold from the contract payments to the Contractor any federal or State unemployment taxes, federal or State income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, the Mississippi Forensics Laboratory shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State for its employees.

## **NO LIMITATION OF LIABILITY**

Nothing in this Agreement shall be interpreted as excluding or limiting any tort liability of the Contractor for harm caused by the intentional or reckless conduct of the Contractor or for damages incurred through the negligent performance of duties by the Contractor or the delivery of products that are defective due to negligent construction.

## **NOTICES**

All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

## **ORAL STATEMENTS**

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Mississippi Forensics Laboratory.

## **OWNERSHIP OF DOCUMENTS AND WORK PAPERS**

The Mississippi Forensics Laboratory shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the contract services which are the subject of this Agreement, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to Mississippi Forensics Laboratory upon termination or completion of the Agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from Mississippi Forensics Laboratory and subject to any copyright protections.

## **RECORD RETENTION AND ACCESS TO RECORDS**

Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the MS Forensics Laboratory or any duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the contract for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement shall be retained by the Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this contract is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

## **RECOVERY OF MONEY**

Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to the Mississippi Forensics Laboratory, the same amount may be deducted from any sum due to the Contractor under the contract or under any other contract between the Contractor and the Mississippi Forensics Laboratory. The rights of the Mississippi Forensics Laboratory are in addition and without prejudice to any other right the Mississippi Forensics Laboratory may have to claim the amount of any loss or damage suffered by the Mississippi Forensics Laboratory on account of the acts or omissions of the Contractor.

## **RIGHT TO INSPECT FACILITY**

The State may at reasonable times inspect the place of business of a Contractor or any Subcontractor which is related to the performance of any Contract awarded by the State.

## **STATE PROPERTY**

Contractor will be responsible for the proper custody and care of any State-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

## **TERMINATION FOR CONVENIENCE CLAUSE**

(1) Termination. The Procurement Officer of the MS Forensics Laboratory may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the MS Forensics Laboratory. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

## **TERMINATION FOR DEFAULT CLAUSE**

(1) Default. If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Procurement Officer of the MS Forensics Laboratory may notify the Contractor in writing of the delay or nonperformance and if not cured in ten days or any longer time specified in writing by the Procurement Officer, such officer may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Procurement Officer may procure similar supplies or services in a manner and upon terms deemed appropriate by the Procurement Officer. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(2) Contractor's Duties. Notwithstanding termination of the contract and subject to any directions from the Procurement Officer, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the State has an interest.

(3) Compensation. Payment for completed services delivered and accepted by the MS Forensics Laboratory shall be at the contract price. The MS FORENSICS LABORATORY may withhold from amounts due the Contractor such sums as the Procurement Officer deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

(4) Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of Subcontractors, the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the Procurement Officer within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a Subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the Subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements.

Upon request of the Contractor, the Procurement Officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled "Termination for Convenience,". (As used in this Paragraph of this clause, the term "Subcontractor" means Subcontractor at any tier).

(5) Erroneous Termination for Default. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

(6) Additional Rights and Remedies. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **THIRD PARTY ACTION NOTIFICATION**

Contractor shall give the Mississippi Forensics Laboratory prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.

### **UNSATISFACTORY WORK**

If at any time during the contract term, the service performed or work done by the Contractor is considered by the Mississippi Forensics Laboratory to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by the Mississippi Forensics Laboratory, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, the Mississippi Forensics Laboratory shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.

### **WAIVER**

No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

### **TRANSPARENCY**

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§25-61-1 et seq., and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§27-104-151 et seq. Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information,

including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

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#### **TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION**

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It is expressly understood that Mississippi law requires that the provisions of this contract which contain the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential Commercial or financial information and shall be available for examination, copying, or reproduction.

**THIS FORM MUST BE SIGNED AND  
RETURNED WITH PROPOSAL**

**EMPLOYEES NOT TO BENEFIT**

I (we) hereby certify that if the contract is awarded to our firm, partnership, corporation, that no employee of the Mississippi Department of Public Safety or MSFL or members of his/her family, including spouse, parents or children has received or been promised directly or indirectly, any financial benefit by way of fee, commission, finder's fee, political contribution or any similar form of remuneration on account of the act of awarding and/or executing this contract.

**PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING  
CONTINGENT FEES**

The prospective contractor represents as a part of such contractor's RFP or proposal that such contractor [ ] **has** [ ] **has not** retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

**CONFLICTS OF INTEREST**

The Offeror [ ] **is** [ ] **is not** aware of any information bearing on the existence of any potential organizational conflict of interest.

**COLLUSION**

I (we) hereby certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal laws and can result in fines, prison sentences, and civil damage awards.

**I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my company.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Title